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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,918	01/17/2006	Linda Leech	GB030118	5318

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BRIARCLIFF MANOR, NY 10510

EXAMINER

CHEN, JUNPENG

ART UNIT	PAPER NUMBER
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2618

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/564,918

Applicant(s)

LEECH, LINDA

Examiner

Junpeng Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 371 and 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Battery powered devices with mode switching function and battery power monitor.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Consider **claim 11**, it recites a "record carrier". However, neither the claims that claim 11 is directly or indirectly depending on, nor the specification have a clear definition of a "record carrier".

Consider **claims 12 and 13**, a "software utility" is recited in both of claims 12 and 13. However, neither the claims that claims 12 and 13 are directly or indirectly depending on, nor the specification have a clear definition of a "software utility".

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Consider **claims 12 and 13**, both claims recite a "software utility", which is software. However, software is non-statutory subject matter under 35 U.S.C. 101 as being computer program per se.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 8-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by **Arimitsu (U.S. PGPub 2003/0104849 A1)**.

Consider claim 1, Arimitsu discloses a method for managing the power consumption of a battery powered radio device, the method comprising:

performing (104) a radio function according to a first operating mode (*read as the mobile terminal operates in normal receive mode and receives the standby signal and other frequency signal intermittently with period T as shown in Figure 4(a); abstract, paragraph [0047]*);

monitoring (106) the battery capacity (*read as battery voltage detector 13 detects the battery voltage V , abstract, paragraphs [0030] and [0047]-[0048]*); and

where the battery capacity is less than a pre-determined amount, maintaining (112) the radio function according to a second operating mode in place of the first operating mode, which second operating mode has a reduced rate of power consumption in relation to the radio function compared to the first operating mode (*read as the battery voltage V detected by voltage detector 18 is lower than the first threshold voltage $V1$ and equal to or higher than the second threshold voltage $V2$, the controller 14 performs a limited cell-search operation, which the controller 14 sends a command signal to the frequency monitor 19 to cause it to tune to frequency $f2$ to monitor a signal from other base station intermittently with period nXT (where n is an integer equal to or greater than 2 and the integer n is appropriately determined based on the configuration of the network), paragraph [0048]*).

Consider **claim 2, as applied to claim 1 above**, Arimitsu discloses a method, wherein the second operating mode comprises receiving a radio signal by means of polling (*read as the battery voltage V detected by voltage detector 18 is lower than the*

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first threshold voltage V1 and equal to or higher than the second threshold voltage V2, the controller 14 performs a limited cell-search operation, which the controller 14 sends a command signal to the frequency monitor 19 to cause it to tune to frequency f2 to monitor a signal from other base station intermittently with period nXT (where n is an integer equal to or greater than 2 and the integer n is appropriately determined based on the configuration of the network), paragraph [0048]).

Consider **claim 4, as applied to claim 1**, Arimitsu discloses a system comprising a first radio device which is battery powered and is operable according to claim 1 (read as mobile terminal, [0045]-[0048]), and a second radio device (read as the base station, paragraph [0029]), the devices being operable to communicate by means of radio signals (read as the mobile terminal and base station are inherently communicating using RF signals).

Consider **claim 8, as applied to claim 2 above**, Arimitsu discloses a battery powered radio device, wherein the radio function is associated with receipt of data (*read as the mobile terminal receives the standby signal and other frequency signal, abstract, paragraph [0047]).*

Consider **claim 9, as applied to claim 8 above**, Arimitsu discloses a battery powered radio device, wherein the battery powered radio device is a mobile telephone (*read as the mobile terminal, abstract, paragraph [0045]).*

Consider **claim 11** (See **Claim Rejections - 35 USC § 112** above), **as applied to claim 1 above**, Arimitsu discloses a mobile terminal comprising software operable to carry out the method of claim 1 (*read as the mobile terminal by Arimitsu inherently*

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comprising software operable to carry out the method of claim 1 because Arimitsu discloses what is claimed in claim 1, paragraphs [0030] and [0047]-[0048]).

Consider **claim 12** (See **Claim Rejections - 35 USC § 112** and **Claim Rejections - 35 USC § 101** above), as applied to claim 1 above, Arimitsu discloses a mobile terminal for carrying out the method steps as claimed in claim 1 (*read as the mobile terminal by Arimitsu inherently comprising software operable to carry out the method of claim 1 because Arimitsu discloses what is claimed in claim 1, paragraphs [0030] and [0047]-[0048]).*

Consider **claim 13** (See **Claim Rejections - 35 USC § 112** and **Claim Rejections - 35 USC § 101** above), as applied to claim 12 above, Arimitsu discloses a battery powered radio device including a data processor, said data processor being directed in its operations by what is claimed in claim 12 (*read as controller 14 carries out the steps in claim 1, paragraphs [0047] and [0048]).*

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arimitsu (U.S. PGPub 2003/0104849 A1) in view of Weinfield et al. (U.S. PGPub 2003/0144042 A1).

Consider **claim 3, as applied to claim 1 above**, Arimitsu discloses the claimed invention above but fails to specifically disclose wherein the second operating mode comprises sending a request radio signal and subsequently receiving an associated response radio signal.

However, in related art, Weinfield discloses that during lower battery life, a mobile station transmits the information on whether the battery is low to the network, the network responds to the mobile station and to have the mobile station to adjust the rate at which the position information is reported from the mobile station, Figures 1-3, abstract, paragraph [0005].

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings of Weinfield into the teachings of Arimitsu for the purpose of making the mobile terminal to consuming less power during low power level.

Consider **claim 5, as applied to claim 2 above**, Arimitsu discloses the claimed invention above but fails to specifically disclose wherein the radio function is associated with determining the location of the device.

However, in related art, Weinfield discloses that during lower battery life, a mobile station would report position information to the network, Figure 4, abstract, paragraphs [0028]-[0030]).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings of Weinfield into the teachings of Arimitsu for the purpose of allowing the base station to know where the mobile terminal is located.

Consider **claim 6, as applied to claim 5 above**, Arimitsu, as modified by Weinfield above, further discloses the radio device is a cordless telephone (read as the mobile terminal, paragraph [0045]).

Consider **claim 7, as applied to claim 5 above**, Arimitsu, as modified by Weinfield above, further discloses the radio device is a remote control handset (read as the mobile terminal, it can remotely control the base station to transmit the stored voice mails data to the mobile terminal so that the user can listen to them, paragraph [0045]).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Arimitsu (U.S. PGPub 2003/0104849 A1)** in view of **Hansson et al. (U.S. Patent 6,339,713 B1)**.

Consider **claim 10, as applied to claim 9 above**, Arimitsu discloses the above claimed limitation but fails to specifically disclose that wherein the mobile telephone is a GSM telephone operable to receive an SMS message.

However, in related art, Hansson discloses a mobile terminal working in GSM standard, which is capable of decreasing battery consumption and receiving SMS message, lines 50-60 of column 1, lines 26-43 of column 8 and lines 7-18 of column 11.

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings of Hansson into the teachings of Arimitus for the reason of reducing power consumption of the mobile phones that are in GSM standard and are capable of receiving SMS message.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Benco, David S. et al.	US 20040242286 A1	Configurable network initiated response to mobile low battery condition
Janssen; John Jerome et al.	US 6571091 B1	Power control method and apparatus suitable for use in a radio communication device
Ichimura; Akira	US 6501968 B1	Battery-powered communications apparatus
Sheynblat; Leonid et al.	US 6408196 B2	Method and apparatus for providing reserve power in a cellular telephone
Levesque, Christian	US 20020065062 A1	AUTOMATIC GSM MOBILE POWER

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Sheynblat, Leonid et al.	US 20020016189 A1	Method and apparatus for providing reserve power in a cellular telephone
Reichelt; Martin	US 6345180 B1	Mobile terminal reserve power system
Sheynblat; Leonid et al.	US 6314308 B1	Method and apparatus for providing reserve power in a cellular telephone
Gray; Steven D. et al.	US 6275712 B1	Mobile station control states based on available power
Ciccone; Joseph L. et al.	US 6078819 A	Apparatus and method for prolonging battery life in a portable telephone having first and second deactivating conditions

9. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junpeng Chen whose telephone number is (571) 270-1112. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Junpeng Chen
J.C./jc

November 17, 2006

EDAN ORGAD
PATENT EXAMINER/TELECOMM.

Edan Orgad 11/17/06